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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,000	11/03/2005	Heinz Focke	048141.018US	9477
25461 7590 11/12/2008 SMITH, GAMBRELL & RUSSELL SUITE 3100, PROMENADE II 1230 PEACHTREE STREET, N.E. ATLANTA, GA 30309-3592				
EXAMINER				
AGERS, JULIE A				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,000

Applicant(s)

FOCKE ET AL.

Examiner

JULIUS AGERS

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/7/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)
- Paper No(s)/Mail Date 7/11/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-11, 16-18, 24, 26-28 are objected to because of the following informalities: Line 2 of claim 1 recites "(thin)". Claim language is not to include parenthesis. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 16-18 and 26 are rejected under 35 U.S.C. 112, second paragraph; as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

In claim 2, the phrase "oblique leg" lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

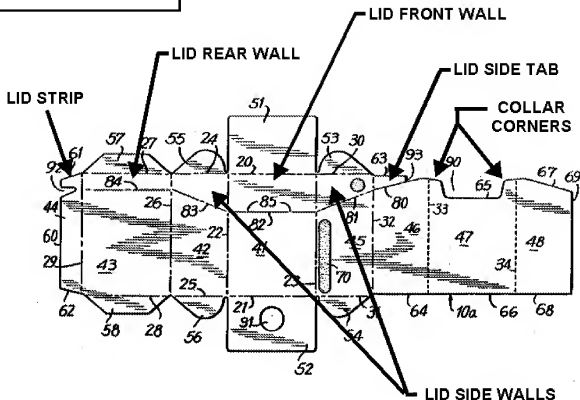
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 16-19, 24, and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore et al. (US 5,143,213).

Regarding claim 1, Moore discloses a hinged-lid box for cigarettes or cigarette packs, comprising a package blank (fig. 1) made of (thin) cardboard for the purpose of

forming a box part with box front wall (41), box rear wall (43), box side walls (42) and a lid (12) having lid front wall, lid rear wall and lid side walls (see reference picture A), wherein during a production process a collar (46, 47 and 48, fig. 1), which is connected as a single piece to one side of the package blank and folded against an inner side of the package blank (connected at score line 32, fig. 1), and abutting the inner side of the box front wall (41) and the box side walls (42, see fig. 2) characterized by the following features: the package blank forms successive or continuous regions for an outer box side tab ("outside long side flap" 45, fig. 1) and lid side tab (see reference picture A), the box front wall (41) and the lid front wall (see reference picture A), the box side wall (42) and the lid side wall (wall connected to 42 via cut 83), the box rear wall (43) and the lid rear wall (connected to 43 via score line 84), as well as a marginal connective strip (44) for connecting the outer box side tab (45) and the lid side tab (see reference picture A), and the collar (46, 47, 48) is attached to a free edge (at score line 32) of the outer box side tab (45).

Reference Picture A



Regarding claim 2, Moore discloses a package blank having punched lines ("cuts" 82, fig. 1) for the purpose of delimiting the lid front wall, the lid side tab and the lid side wall (see reference picture A) from adjacent regions of the box part, with a plurality of spaced-apart residual connections ("points" 85, fig. 1) being formed by a transverse section of the punched line (82) in the region of the box front wall (41) and the lid front wall (see reference picture A) and a residual connection (81, 83) being formed in the middle of each oblique leg of the punched line (82) separating the box side tab (45) from the lid side tab, on one hand, and the box side wall (42) from the lid side wall, on the other hand.

Regarding claim 3, Moore discloses the collar (46, 47, 48) comprising a collar front wall (47) and lateral collar flaps (48, 46) and is delimited by an upper collar edge ("top inside front panel margin" 65, fig. 1) which assumes an oblique sloping configuration at least in the region of lateral collar flaps.

Regarding claim 4, Moore discloses the collar has in a centered region of the collar front wall (47) a depression ("cutout portion" 90, fig. 1) bordered by the collar edge (65) and that the collar edge joining the depression has a straight oblique sloping configuration proceeding from collar corners (see reference picture A).

Regarding claim 5, Moore discloses in the region where the collar flap (46) joins the box side tab (45), the collar edge (80) joins a punched line (81) formed in the region of the package blank for delimiting the box part from the collar (46, 47, 48), with an oblique leg of the punched line (81) being directed toward the collar edge (80) at an obtuse angle.

Regarding claim 6, Moore discloses collar (46, 47, 48), being folded against the inner side of the package blank (see figure 2) and connected to the package blank in the region of box side tab (45) and collar flap (46).

Regarding claim 7, Moore discloses a box strip ("side flap" 44, fig. 1) arranged opposite to the box side tab (45) that is connected to an inner side of a collar flap (46) in the region of the collar and to the inner side of the box side tab (45) outside of the collar (see figs. 2-5).

Regarding claim 8 and 9, Moore discloses a lid strip (see reference picture A) laterally attached to the region of the lid rear wall as a continuation of a box strip (44) is

connected to the lid side tab (see figs. 4 and 5), and a box strip (44) and a lid strip delimited from one another by a wedge-shaped punching ("notch" 92, fig. 1) to form oblique edges.

Regarding claim 10, Moore discloses that, for the purpose of accommodating two pack groups arranged one above the other (see pack groups in fig. 3) and comprising individual packages or cigarette packs, the collar (46, 47, 48) extends into a region of a lower pack group (bottom two packs in see fig. 3), in particular to a region below an imaginary midplane of the packs of the lower pack group.

Regarding claim 16 and 17, Moore discloses the collar comprising a collar front wall (47) and lateral collar flaps (48, 46) and is delimited by an upper collar edge (80, 65, 67) which assumes an oblique sloping configuration at least in the region of lateral collar flaps (48, 46) and wherein a centered region of the collar front wall a depression (90) bordered by the collar edge (80, 65, 67) and that the collar edge joining the depression has a straight oblique sloping configuration proceeding from collar corners (see reference picture A).

Regarding claim 18, Moore discloses in the region where the collar flap (46) joins the box side tab (45), the collar edge (80) joins a punched line (81,82,83) formed in the region of the package blank for delimiting the box part from the collar (46,47,48), with an oblique leg of the punched line (28) being directed toward the collar edge (80) at an obtuse angle.

Regarding claim 19, Moore discloses the height of the hinge-lid box corresponds approximately to the height of a conventional cigarette pack as the package contents

(see fig. 3), and the width of the hinge-lid box is sized such that five standard cigarette packs can be accommodated next to each other in the hinge-lid box with the cigarette packs abutting each other with their front face and rear face large-surface areas (see fig. 3).

Regarding claim 24, Moore discloses a box characterized in that conventionally configured cigarette packs lie flat in the hinge-lid box serving as a multipack and are arranged with front sides or rear sides facing upwards or downwards (see fig. 3 and 8).

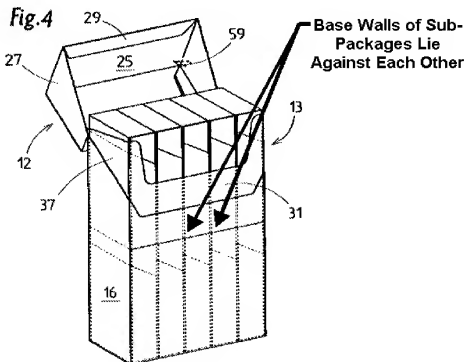
Regarding claim 26 and 27, Moore discloses two spaced-apart residual connections (85, fig. 1) and the collar folded (46,47,48) against the inner side of the package blank connected to the package blank exclusively in the region of box side tab (45) and collar flap (46) by means of two glue beads ("Inside long side flap 46 is adhesively attached to outside long side flap 45 at glue line 70 and glue dot 71" col. 4, lines 64-65).

6. Claims 20, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke et al. (US 6,742,651).

Regarding claim 20, Focke discloses a hinge-lid box for cigarettes or cigarette packs, comprising a package blank (fig. 1) made of thin cardboard for the purpose of forming a box part with a box front wall (14, fig. 1), a box rear wall (15), box side walls (16, 17) and a lid (12) having lid front wall (25), lid rear wall (26) and lid side walls (27, 28, fig. 3), and with a collar (13) abutting the inner side of the box front wall (14) and the box side walls (16, 17, see figure 4) characterized by the following features:

at least two hinge-lid boxes are joined as sub-packages (top and bottom half of fig. 4) to form a multipack unit, and the sub-packages lie with base walls against one another and are connected detachably to one another in the region of the base walls (see reference picture B).

Reference Picture B



Regarding claim 23, Focke discloses a row of five cigarette packs (see fig. 8) configured as hinge-lid packs lying adjacent to one another and arranged in each of the sub-packages (top and bottom half of fig. 4), with the cigarette packs abutting each

other with front sides and rear sides and with lids facing the lid (12, fig. 8) of the respective sub-package.

Regarding claim 25, Focke discloses conventionally configured cigarette packs lying flat in the hinge-lid box serving as a multipack and are arranged with front sides or rear sides facing upwards or downwards (see fig. 8).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (US 5,143,213) in view of Focke et al. (US 6,742,651).

Regarding claims 11 and 28, as described above Moore discloses the claimed invention except for upright package edges (50, 51) that are configured as round corners or as beveled edges and package contents selected from the group consisting of round corner cigarette packs and cigarettes. However, Focke discloses upright package edges (77,78, fig. 12) that are configured as beveled edges and package contents consisting of round corner cigarette packs and cigarettes (see fig. 15) for the purpose of eliminating unnecessary cavities in the packs. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Moore's

device to provide upright package edges that are configured as beveled edges and package contents consisting of round corner cigarette packs and cigarettes, as taught by Focke, in order to be able to provide a package that can conform to the corresponding shape of the package contents, thereby avoiding unnecessary cavities or excess space in the pack(s).

9. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focke et al. (US 6,742,651) in view of Adams et al. (US 5,261,533).

Regarding claims 21 and 22, as described above Focke discloses the claimed invention except for sub-packages that are connected to one another by means of a severable adhesive label having a perforation line. However, Adams teaches two cigarette packages connected to one another by a severable adhesive label (400, fig. 6) having a perforation line (450) for the purpose of securely holding the packages together, yet allowing them to be separated when desired. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Focke's device to provide a severable adhesive label having a perforation line, as taught by Adams, in order to be able to securely hold the packages together, yet allowing them to be separated when desired.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Schoch et al. (US 6370846), Boriani et al. (US 6929121),

Rosenburg (US 3708108), Wenzel (US 2951627), Rosen (US 2922564), Reynolds (US 2473055), Aston (US 5036982), Whately et al. (US 4726471).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIUS AGERS whose telephone number is (571)270-5423. The examiner can normally be reached on Monday - Friday, EST 8:00 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mickey Yu/
Supervisory Patent Examiner, Art
Unit 3728

/J. A./
Examiner, Art Unit 3728